

ORDER

IT IS HEREBY ORDERED pursuant to Arkansas Code Annotated §§ 6-13-1401 et seq. and the December 11, 2014 vote of the Arkansas State Board of Education (State Board) that:

1. The voluntary annexation petition submitted by the Hackett School District and the Hartford School District for the annexation of the Hartford School District into the Hackett School District is hereby granted for the reasons set forth therein. A copy of the voluntary annexation petition is attached to this order. (Exhibit A).

2. Effective July 1, 2015, the Hartford School District is hereby is abolished and shall be annexed into the receiving Hackett School District. The receiving school district shall be named the Hackett School District. The boundary lines of the Hackett School District shall encompass the existing boundaries of the Hartford School District and the Hackett School District.

3. The State Board finds that the voluntary annexation of the Hartford School District into the Hackett School District will not hamper, delay, or in any manner negatively affect the desegregation efforts of a school district or districts in this state. A copy of an advisory opinion from the Attorney General is attached to this order. (Exhibit B).

4. The Arkansas Department of Education is hereby directed, on behalf of the State Board, to:

a. Revise the maps of the school districts to properly show the boundary lines of the receiving district;

b. File a copy of this order and a map of the boundary lines of the receiving district with:

(1) The county clerk of each county where the district will be located;

(2) The Secretary of State; and

(3) The Arkansas Geographic Information Office.

5. For the reasons set forth above, the voluntary annexation petition submitted by the Hackett School District and the Hartford School District is hereby granted.

IT IS SO ORDERED.

ORDER SIGNED AND EXECUTED ON THIS 15th OF DECEMBER 2014.



Arkansas State Board of Education
Mr. Samuel Ledbetter, Chair

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

IN THE MATTER OF THE ANNEXATION OF THE HARTFORD SCHOOL DISTRICT OF
SEBASTIAN COUNTY INTO THE HACKETT SCHOOL DISTRICT OF
SEBASTIAN COUNTY

PETITION FOR ANNEXATION

COMES NOW the Hackett School District (Hackett) of Sebastian County and the Hartford School District (Hartford) of Sebastian County (Petitioners) acting by and through their respective Superintendents duly authorized, pursuant to Ark. Code Ann. § 6-13-1401 et seq., and petition the Arkansas State Board of Education (Board) to approve the annexation of the petitioning affected Hartford School District into the petitioning receiving Hackett School District, and hereby would submit to the Board as follows:

1. Pursuant to Ark. Code Ann. § 6-13-1401 et seq., the Petitioners hereby submit and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board resolutions approving this petition for annexation of the Hartford School District into the receiving Hackett School District as approved by a majority of the quorum present of the local boards of education of the respective Petitioners pursuant to the terms and conditions contained in the approved Voluntary Annexation Agreement required by Ark. Code Ann. § 6-13-1416 and attached hereto as Exhibit B.

2. The Petitioners hereby submit and incorporate in this petition as Exhibit C attached hereto, proof of public notice of intent to petition this Board to annex the Hartford School District into the receiving Hackett School District. The public notice of intent to annex

was published in the local newspaper(s) of general circulation of the affected and receiving districts for a time period of no less than once a week for two (2) consecutive weeks prior to the filing of this petition with the Board.

3. Pursuant to Ark. Code Ann. §6-13-1401 et seq., the Petitioners hereby agree that the permanent Board of Directors of the resulting school district, to be named the Hackett School District (HSD), shall be the five (5) members of the current Board of Directors of the Hackett School District. There shall be no interim school board. The Board of Directors positions shall continue to be elected at large.

4. The Petitioners submit that their respective school districts are geographically contiguous.

5. The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned annexation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit D.

6. Pursuant to Ark. Code Ann. § 6-13-1401 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned annexation shall be July 1, 2015, and that there shall be only one local school board and the current one local superintendent of the receiving Hackett School District, Mr. William Pittman, shall be superintendent of the new Hackett School District.

7. The Petitioners hereby submit an affidavit of facts by the superintendent of the affected school district(s), which is incorporated as Exhibit E, concerning the relevant status of

any federal court-ordered supervision or jurisdiction of desegregation cases involving the affected districts.

WHEREFORE, Petitioners request that the Board approve the annexation of the Hartford School District of Sebastian County into the receiving Hackett School District of Sebastian County, to create the new Hackett School District of Sebastian County; that it issue an Order dissolving the affected school districts and establishing the new Hackett School District; that it issue an Order establishing the boundary lines of the receiving school district and prepare a map of the resulting Hackett School District; and that it file its Order and map with the County Clerk of Sebastian County, and the Arkansas Geographic Information Office.

Respectfully submitted,

Hartford School District

By: _____
Superintendent Date

President, School Board Date

Hackett School District

By: William Pittman 9-8-14
Superintendent Date

Janice Terrell 9-8-14
President, School Board Date

Exhibit A

School Board Resolution

COMES NOW the Hackett School District Board acting by and through its
Superintendent duly authorized and do herein declare:

A special or regular school board meeting was held on 9-8-14,
2014, wherein a quorum was present and a majority of the quorum voted to approve the
annexation of the Hartford School District into the Hackett School District, and the minutes of
said meeting reflect such. Therefore, this document is to serve as the formal resolution of the
Hackett School District Board of Directors, pursuant to Arkansas law, that said annexation is
hereby approved.

Hackett School District

of Sebastian County

By: William Pittman 9-8-14
Superintendent Date
Jacqui Ten 9-8-14
President, School Board Date

EXHIBIT B

AGREEMENT FOR AN VOLUNTARY ANNEXATION OF THE HARTFORD SCHOOL DISTRICT INTO THE HACKETT SCHOOL DISTRICT

WHEREAS, the Hartford School District (Hartford) of Sebastian County, and the Hackett School District (Hackett), of Sebastian County (Hartford and Hackett are the "Schools"), and both Hartford and Hackett are desirous of petitioning the Arkansas State Board of Education to cause Hartford to be annexed into Hackett, to create the new Hackett School District (HSD), pursuant to Ark. Code Ann § 6-13-1401 *et. seq.*; and

WHEREAS, both Hartford and Hackett agree that it would be in the Schools' mutual best interest and the mutual best interests of the Schools' patrons for the Schools to enter into this Voluntary Annexation Agreement (Agreement), and also to comply with the requirements of Ark. Code Ann. §6-13-1416; and

WHEREAS, the purpose of this Agreement is to set forth the terms and conditions of the proposed voluntary annexation so that the annexation may be accomplished in the best interest of the Schools;

NOW THEREFORE, in consideration of their mutual promises and agreements, Hartford and Hackett agree as follows:

1. Effective date. If approved by the Arkansas State Board of Education (SBE), the effective date of the voluntary annexation shall be July 1, 2015.
2. Names. Hackett is willing to approve an annexation of Hartford under the following terms of agreement. The resulting school district shall be known as the Hackett School District (HSD). Subject to the approval of the SBE, the Hackett campus shall be known as the Hackett Campus and the Hartford Campus shall continue to be so referenced after the annexation. Each of the current campuses within the new HSD shall continue to keep their same mascots. However, the Hartford School Campus shall continue to be known as the Hartford School Campus and any sports teams or other representatives from the Hartford Campus playing on a Hartford school team in an Arkansas Activities Association event shall be known as the "Hartford Hustlers" until such time as the Hartford School Campus is no longer in operation or no teams represent the Hartford School Campus.
3. Board of Directors. Following approval of the proposed annexation by the SBE, pursuant to Ark. Code Ann. §6-13-1416(d)(3), the HSD will not need to utilize an interim Board of Directors, and the permanent Board of Directors will be composed of the existing five (5) member school board of the current Hackett School District.
4. Superintendent. Mr. William Pittman of the Hackett School District shall remain under contract as superintendent of the Hackett School District, under the terms and conditions of his current contract.

5. School Employees Employment. After evaluating the needs of the district during the 2015-2016 school year, all staff of the former Hartford School District shall be reviewed for continued employment needs and shall remain subject to reassignment of duties, non-renewal or termination of contract provisions as allowed by law and policies of the HSD.

6. School Facilities. Both Hartford and Hackett agree that HSD will allow the Hartford School campus to continue to operate both an elementary and high school system in the HSD as long as deemed economically and educationally feasible and beneficial to the HSD as a whole as determined by the school board of directors of the HSD on a periodic review ; and there shall be no specific test or determination or binding obligation on any future school board concerning the decision to open or close any of the schools in the district, including a school on the current Hartford School Campus.

7. Millage Rates. The millage rates of the current Hartford School District and the current Hackett School shall remain unchanged and shall be effective within their respective portions of the new HSD, unless and until the issue of unification of the millage rates is placed on the ballot for an annual school election.

8. Board Elections. As stated in Section 3., a five (5) member Board of Directors, comprised of all five (5) members of the current Hackett School Board, shall serve as the permanent Board of Directors of the new HSD. There shall be no interim Board of Directors.

9. Petition. If the proposed merger of annexation is approved, the attached petition of annexation shall be approved by both the Hartford School Board and Hackett School Board - and submitted to the State Board of Education no later than January 2015.

10. School Choice/Student Transfer. It is the intent of this Agreement that all students eligible for school choice under applicable law may exercise school choice option.

11. Entire Agreement. This Agreement along with the Petition for Annexation and its Exhibits represents the entire proposal of annexation and no other terms or conditions or a proposed merger are contemplated or approved by the Hackett at this time. This action is necessary to protect the integrity of the new HSD with two (2) potential separate school systems and thus seek to avoid, as much as possible, fiscal distress, academic distress, facilities distress and violations of Arkansas Standards for Accreditation or other state or federal accountability laws, and maintain a standard of education and accountability desired by the new HSD.

12. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13. Applicable law. The annexation shall be effective in accordance with the laws of the state of Arkansas and the rules of the Arkansas State Board of Education.

8TH IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the
day of SEPT., 2014.

HARTFORD SCHOOL DISTRICT OF SEBASTIAN COUNTY, ARKANSAS

By:
President, Board of Directors

By:
Secretary, Board of Directors

HACKETT SCHOOL DISTRICT OF SEBASTIAN COUNTY, ARKANSAS

By: 
President, Board of Directors

By: 
Secretary, Board of Directors

Exhibit C

PROOF OF PUB
STATE OF ARK
COUNTY OF SE

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Times Record, a
less than four pag
fixed daily interv
for more than a p
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contains, that at le
subscription to the
period of at least
forty percent new
Franklin, Johnson
I further certify th

RE

NOTICE OF INTENT TO ANNEX

The Hackett School District of Sebastian County hereby provides lawful notice of the intent to file a petition with the Arkansas State Board of Education requesting approval to annex the Hartford School District into the receiving Hackett School District.

On September 8, 2014, the Hackett School Board met and approved the petition and on September 8, 2014, the Hartford School Board met and approved the petition and both districts are hereby giving notice to the public of the districts' intent to annex into one school district.

The Superintendent of each school district has been granted the authority to petition the State Board of Education for annexation. Said petition shall be filed with the State Board of Education at least 30 days prior to the meeting when the petition will be presented for the consideration of the State Board of Education.

ORDER 317763
COST 384.00

Was published in the regular daily issue of said newspaper for consecutive insertions as follows:

First Run: 10-2-14
Second Run: 10-9-14
Third Run:
Fourth Run:

Radonna Taylor
(Signature)

Sworn before me on the 9 day of Oct 2014

My Commission expires 1-11-2023

Johnnie L Swaim
Notary Public

JOHNNIE L SWAIM
Sebastian County
Commission Number 12391360
Notary Public - Arkansas
My Commission Expires January 11, 2023

EXHIBIT A

Ad Order Number
0000317763

Advertiser Account
40496

Pavor Account
40496

Order Source

Sales Rep.
pwhite

Advertiser Name/Address
HACKETT PUBLIC SCHOOLS

Pavor Name/Address
HACKETT PUBLIC SCHOOLS

Order Status
Live

Order Taker
pwhite

102 N OAK
HACKETT AR 72937 USA

102 N OAK
HACKETT AR 72937 USA

Proofs
0

Placed By
Bill Pittam

Advertiser Phone
(479) 638-8210

Pavor Phone
(479) 638-8210

Tear Sheets
0

Advertiser Fax

Pavor Fax

Advertiser Email

Pavor Email

Order Invoice Text

Ad Order Notes

Ad Number
0000317763-01

Ad Type
S-BRD 6C-22i

External Ad Number

Production Method
New Build

Pickup

Comments for Production

Ad Size
3 X 4.00

Color

Product
FS-Times Record
FS-Times Record

Placement
Main
Main

Run Date
10/02/2014
10/09/2014

Schedule Invoice Text

Sort Text
PUBLIC NOTICE OF INTENT TO ANNEX
PUBLIC NOTICE OF INTENT TO ANNEX

**** Remember that LATE Ads must be approved by your manager! ****

FOR PRODUCTION DEPT. USE ONLY

Created By: _____
Corrected By: _____
Exported By: _____
Copy Input By: _____

Sales Assistant Check List

_____ Ad Note
_____ Layout
_____ Spelling
_____ Dates/Address/Phone #'s
_____ Overall Instructions Completed
_____ Ad Saved In Correct Folder
_____ Initials

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Order Confirmation

<u>Ad Order Number</u> 0000317763	<u>Customer</u> HACKETT PUBLIC SCHOOLS	<u>Payor Customer</u> HACKETT PUBLIC SCHOOLS	<u>PO Number</u>
<u>Sales Rep.</u> pwhite	<u>Customer Account</u> 40496	<u>Payor Account</u> 40496	<u>Ordered By</u> Bill Pittam
<u>Order Taker</u> pwhite	<u>Customer Address</u> 102 N OAK HACKETT AR 72937 USA	<u>Payor Address</u> 102 N OAK HACKETT AR 72937 USA	<u>Customer Fax</u>
<u>Order Source</u>	<u>Customer Phone</u> (479) 638-8210	<u>Payor Phone</u> (479) 638-8210	<u>Customer EMail</u>
			<u>Special Pricing</u>

<u>Tear Sheets</u>	<u>Proofs</u>	<u>Affidavits</u>	<u>Blind Box</u>	<u>Promo Type</u>	<u>Materials</u>
0	0	0			

Invoice Text

<u>First / Last run Dates</u>	<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Method</u>	<u>Payment Amount</u>	<u>Amount Due</u>
10 / 02 / 14 10 / 09 / 14	384.00	.00	384.00	Credit Card	.00	.00

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9/23/14
make border
BOLDED

9/23
10a

Exhibit E

Affidavit Concerning Desegregation Orders

COMES NOW the Hackett School District, acting by and through its Superintendent, and hereby states and represents to the State Board of Education that, to the best of my knowledge, the Hackett School District currently is is not (circle one) involved in desegregation litigation in a United States Federal Court or is is not (circle one) under the continuing jurisdiction of a United States Federal Court Order regarding desegregation of a public school or schools (see "*" at bottom of affidavit).

FURTHER the affiant sayeth not.

IN WITNESS WHEREOF, I hereunto set my hand this 8TH day of SEPT., 2014.

County of Sebastian
State of Arkansas

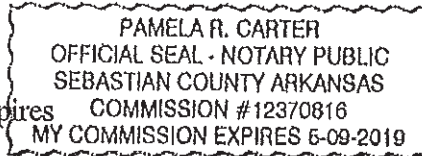
William Pittman
Superintendent

2014.

Sworn and subscribed before me, Notary Public, this

8TH day of Sept
Pamela R. Carter
Notary Public

My Commission expires



5/9/19

* = If you answered, "is involved in desegregation litigation, etc." above, please attach a copy of any applicable Court orders or other relevant documentation.



Ad Number 0000317763-01 **Ad Type** S-BRD 6C-22i **Production Method** New Build **Production Notes**

External Ad Number **Ad Attributes** **Ad Released** No **Pick Up**

Ad Size 3 X 4.00 **Color**

Ad Content

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Product FS-Times Record **Placement** Main **Position** Page 3 Main

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

IN THE MATTER OF THE ANNEXATION OF THE HARTFORD SCHOOL DISTRICT OF
SEBASTIAN COUNTY INTO THE HACKETT SCHOOL DISTRICT OF
SEBASTIAN COUNTY

PETITION FOR ANNEXATION

COMES NOW the Hackett School District (Hackett) of Sebastian County and the Hartford School District (Hartford) of Sebastian County (Petitioners) acting by and through their respective Superintendents duly authorized, pursuant to Ark. Code Ann. § 6-13-1401 et seq., and petition the Arkansas State Board of Education (Board) to approve the annexation of the petitioning affected Hartford School District into the petitioning receiving Hackett School District, and hereby would submit to the Board as follows:

1. Pursuant to Ark. Code Ann. § 6-13-1401 et seq., the Petitioners hereby submit and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board resolutions approving this petition for annexation of the Hartford School District into the receiving Hackett School District as approved by a majority of the quorum present of the local boards of education of the respective Petitioners pursuant to the terms and conditions contained in the approved Voluntary Annexation Agreement required by Ark. Code Ann. § 6-13-1416 and attached hereto as Exhibit B.

2. The Petitioners hereby submit and incorporate in this petition as Exhibit C attached hereto, proof of public notice of intent to petition this Board to annex the Hartford School District into the receiving Hackett School District. The public notice of intent to annex was published in the local newspaper(s) of general circulation of the affected and receiving

districts for a time period of no less than once a week for two (2) consecutive weeks prior to the filing of this petition with the Board.

3. Pursuant to Ark. Code Ann. §6-13-1401 et seq., the Petitioners hereby agree that the permanent Board of Directors of the resulting school district, to be named the Hackett School District (HSD), shall be the five (5) members of the current Board of Directors of the Hackett School District. There shall be no interim school board. The Board of Directors positions shall continue to be elected at large.

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5. The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned annexation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit D.

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Respectfully submitted,

Hartford School District

Hackett School District

By: <u>Teresa Ragdale</u>	<u>09-08-14</u>	By: _____	_____
Superintendent	Date	Superintendent	Date
<u>Eric Lanman</u>	_____	_____	_____
President, School Board	Date	President, School Board	Date

Exhibit A

School Board Resolution

COMES NOW the Hartford School District Board acting by and through its
Superintendent duly authorized and do herein declare:

A special or regular school board meeting was held on September 8,
2014, wherein a quorum was present and a majority of the quorum voted to approve the
annexation of the Hartford School District into the Hackett School District, and the minutes of
said meeting reflect such. Therefore, this document is to serve as the formal resolution of the
Hartford School District Board of Directors, pursuant to Arkansas law, that said annexation is
hereby approved.

Hartford School District

of Sebastian County

By: Teresa Ragsdal 09-08-14
Superintendent Date
Eric Lannan 09-08-14
President, School Board Date

EXHIBIT B

AGREEMENT FOR AN VOLUNTARY ANNEXATION OF THE HARTFORD SCHOOL DISTRICT INTO THE HACKETT SCHOOL DISTRICT

WHEREAS, the Hartford School District (Hartford) of Sebastian County, and the Hackett School District (Hackett), of Sebastian County (Hartford and Hackett are the "Schools"), and both Hartford and Hackett are desirous of petitioning the Arkansas State Board of Education to cause Hartford to be annexed into Hackett, to create the new Hackett School District (HSD), pursuant to Ark. Code Ann § 6-13-1401 *et. seq.*; and

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9. Petition. If the proposed merger of annexation is approved, the attached petition of annexation shall be approved by both the Hartford School Board and Hackett School Board and submitted to the State Board of Education no later than January 2015.

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13. Applicable law. The annexation shall be effective in accordance with the laws of the state of Arkansas and the rules of the Arkansas State Board of Education.

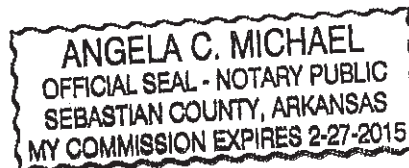
IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the
8 day of September, 2014.

HARTFORD SCHOOL DISTRICT OF SEBASTIAN COUNTY, ARKANSAS

By: Eri Lenman
President, Board of Directors

Angela C. Michael, Notary Public

By: Sharon Hyde
Secretary, Board of Directors



HACKETT SCHOOL DISTRICT OF SEBASTIAN COUNTY, ARKANSAS

By: _____
President, Board of Directors

By: _____
Secretary, Board of Directors

Exhibit C

PUBLISHER'S AFFIDAVIT

Mena Newspapers Inc.
PO Box 1307
Mena, AR 71953
479-394-1900

Proof of Publication

I, Clark Smith, Publisher of the Mansfield Citizen, a newspaper of general circulation, published weekly at Mena, Arkansas, solemnly swear that the notice herewith attached is a true copy and was published in the regular and entire issue of said newspaper for TWO (2) consecutive weeks, commencing with the issue dated October 1, 2014, and ending with the issue dated October 8, 2014.

Publisher Clark Smith

Subscribed and sworn to before me this 8th day of October 2014

Notary Public

My Commission expires August 7, 2024

Jessica Laws

Inches 118.88 # Words 146

61023 Amount Due

61023 Ad Number

JESSICA LAWS
NOTARY PUBLIC-STATE OF ARKANSAS
POLK COUNTY
My Commission Expires 08-07-2024
Commission # 12400210

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Published in MG on 10-1-14 & 10-8-14 #61023

Exhibit E

Affidavit Concerning Desegregation Orders

COMES NOW the Hartford School District, acting by and through its Superintendent, and hereby states and represents to the State Board of Education that, to the best of my knowledge, the Hartford School District currently is/~~is not~~ (circle one) involved in desegregation litigation in a United States Federal Court or is/is not (circle one) under the continuing jurisdiction of a United States Federal Court Order regarding desegregation of a public school or schools (see "*" at bottom of affidavit).

FURTHER the affiant sayeth not.

IN WITNESS WHEREOF, I hereunto set my hand this 8 day of September, 2014.

Teresa Ragdale
Superintendent

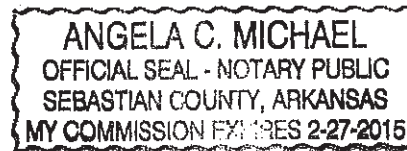
County of Sebastian
State of Arkansas

Sworn and subscribed before me, Notary Public, this 8 day of Sept., 2014.

Angela C. Michael
Notary Public

My Commission expires

2-27-2015



* = If you answered, "is involved in desegregation litigation, etc." above, please attach a copy of any applicable Court orders or other relevant documentation.

RESOLUTION 090814B

RESOLUTION OF THE HARTFORD SCHOOL DISTRICT BOARD OF DIRECTORS

Whereas, the Hartford School District Board of Directors met in regular, open, and properly called meeting on September 8, 2014 at 7:00 p.m.

Whereas, 5 members were present, a quorum was declared by the chair.

Whereas, the Hartford Board recognizes the need to grant authority to the Superintendent, Teresa Ragsdale, in order to file the petition for annexation by Hackett School District to the Arkansas State Board of Education.

Now therefore, this Board upon due consideration and deliberation hereby approves and adopts this resolution for use in the Hartford School District to be enacted as of this date.

President Eric Larman

Vice-President Chris

Secretary Sharon Hyde

Member Marty Blanchard

Member Cherie Walker

Date 09/08/14



THE ATTORNEY GENERAL
STATE OF ARKANSAS
DUSTIN MCDANIEL

RECEIVED
COMMISSIONER'S OFFICE

NOV 17 2014

DEPARTMENT OF EDUCATION

Scott P. Richardson
Senior Assistant Attorney General

Direct dial: (501) 682-1019
E-mail: scott.richardson@arkansasag.gov

November 14, 2014

Mr. Tony Wood
Commissioner of Education
Arkansas Department of Education
4 State Capitol Mall
Little Rock, Arkansas 72201-1019

Re: Proposed Voluntary Annexation of the Hartford School District and Hackett School District

Dear Mr. Wood:

This is in response to your letter to Attorney General McDaniel dated November 7, 2014, in which you ask for our advice, pursuant to Ark. Code Ann. §§ 6-13-1408(b) and 6-13-1603, concerning the potential desegregation effects of a proposed voluntary annexation of the Hartford School District into the Hackett School District.

Section 6-13-1408(b) provides that, prior to the entry of any order annexing or consolidating school districts, "the state board shall seek an advisory opinion from the Attorney General concerning the impact of the proposed annexation or consolidation on the effort of the state to assist a school district or districts in desegregation of the public schools of this state." Section 6-13-1603(c) provides that "[a]ll administrative consolidations or annexations under this section shall be accomplished so as not to create a school district that hampers, delays, or in any manner negatively affects the desegregation of another school district in this state."

Under United States Supreme Court precedent, the term "desegregation" is a legal term of art that describes the process by which a school district eliminates, to the extent practicable, the lingering effects or "vestiges" of prior *de jure* racial discrimination. Thus, in the absence of a finding that a school district has engaged in the past in activities prohibited by the Fourteenth Amendment to the United States Constitution, and that there are presently lingering effects or vestiges of that discrimination that remain unaddressed, a school district is not "desegregating" as that term is used in case law.

In this case, the State Board is considering the possible voluntary annexation of the Hartford School District into the Hackett School District. If approved, the annexation would result in the creation of a new larger school district. In addition to the two Districts being

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EXHIBIT B

considered as consolidation partners, the following districts could potentially share a border with the newly formed district(s): Greenwood School District, Mansfield School District, and Waldron School District.

The Department of Education has indicated that it is not aware of any desegregation orders that may apply to Hartford, Hackett, or the surrounding school districts. A search of our records does not reveal any desegregation cases involving Hartford, Hackett, or the surrounding school districts. We also note that neither Hartford nor Hackett have declared an exemption from the Public School Choice Act of 2013. Of the surrounding school districts noted above, none appear to have been subject to desegregation litigation.

As will be the case in any proposed annexation or consolidation, the Board must be cognizant that it may not order or approve any proposed annexation or consolidation with the purpose or intent to create racially segregated schools. As the Supreme Court noted in *Missouri v. Jenkins*, 515 U.S. 70, 115 (1995):

[I]n order to find unconstitutional segregation, we require that plaintiffs "prove all of the essential elements of *de jure* segregation — that is, stated simply, a current condition of segregation resulting from *intentional state action directed specifically* to the [allegedly segregated] schools." *Keyes v. School Dist. No. 1, Denver*, 413 U.S. 189, 205-206 (1973) (emphasis added). "[T]he differentiating factor between *de jure* segregation and so-called *de facto* segregation . . . is purpose or *intent* to segregate." *Id.*, at 208 (emphasis in original).

There are numerous cases that discuss legal challenges to school district annexations and consolidations in the context of desegregation litigation, but in each case the question of whether a particular annexation or consolidation (or series of annexations or consolidations) were done with the requisite unconstitutional intent is a highly fact-specific inquiry.

To assist the State Board, Department of Education staff has provided the Board with enrollment figures showing the racial composition of the school district to be annexed or consolidated and the surrounding school districts. We suggest that this practice continue and that the State Board consider the relative racial balance of the affected school districts in making its decision.

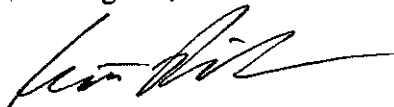
Neither state nor federal law requires the Board to create school districts in a manner that would achieve any particular "racial balance" in the student population of a school district.¹ We have, however, previously noted that neither the Hartford nor the Hackett School Districts, nor the surrounding school districts appear to be subject to any ongoing desegregation order. Even so, we strongly advise the Board to scrutinize this proposed consolidation with great care and to

¹ It should be noted that a decision made solely on a racial basis, even for laudable purposes such as diversity in education or the prevention of (re)segregation, would be subject to "strict scrutiny" analysis. *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 127 S.Ct. 2738 (2007).

Mr. Tony Wood
November 17, 2014
p. 3 of 3

satisfy itself that there are legitimate, non-racially-motivated reasons for the annexation of Hartford School District to the Hackett School District.

Best Regards,

A handwritten signature in black ink, appearing to read "Scott P. Richardson", written in a cursive style.

Scott P. Richardson
Senior Assistant Attorney General

SPR/lf

cc: Mr. Jeremy Lasiter (*via electronic mail*)